

**PHARMACY EXAMINING BOARD
MINUTES
MADISON, WI
MARCH 11, 2003**

PRESENT: Cynthia Benning, R.Ph.; Michael Bettiga, R.Ph.; John Bohlman, R.Ph.; Georgina Forbes, Dan Luce, R.Ph; Charlotte Rasmussen, and Susan Sutter, R.Ph.

STAFF PRESENT: Thomas Ryan, Bureau Director; Deanna Zychowski, William Black, Legal Counsel; Pamela Meicher, Program Assistant; and Division of Enforcement staff for portions of the meeting.

GUESTS: Shelley Roebel, Purdue Pharmacy; Kurt Holm, RPH, Morton Pharmacy; Steve Morton, Morton Pharmacy; Janice Stat Paynter, Dean Pharmacy; Brian McThone, Walgreens; Dean Favors, UW Health; Jennifer Buechel, Lori Olson, Tara Knox, Wendy Vlietstra, Krista Pasek, Kathryn Grigg, Brenda Burke, Angela Ammon, Marie Beastrom, Amy Baron, Brianne Schmoller, Jessica Healy, Peter Smith, Rosalynn Flores, Jennifer Morzenti, Joe Stout, Nic Smith and Nick Sharrow all from the School of Pharmacy

CALL TO ORDER

Susan Sutter, Chair, called the meeting to order at 9:03 a.m. A quorum of seven members was present.

AGENDA

Additions/Changes to the Agenda:

Add under E – Senate Bill 21

Add under J – Correspondence re: Hospital pharmacy serving a nursing home with an Accu-Dose system

Add under J – Hospice and medication returns

Add under J – Variance on dispensing medications - Riverview Hospital Association

Add under J – Correspondence re: New federal rules regarding addiction treatment

Add under U – Case Closing 02 PHM 043

Add under V – NABP Correspondence

Add under V – Article “Illegal Business booming at Canadian drug outlets”

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to approve the agenda as amended. Motion carried unanimously.

SECRETARY OF THE DEPARTMENT

Deputy Secretary Mary Schlaefer introduced herself to the Board. Deputy Secretary Schlaefer worked 13 years in the Department of Justice and most recently handled DRL cases. Ms. Schlaefer would like to work with DOE, the Boards and the department to improve the speed of disciplinary cases to ensure public health and safety. Ms. Schlaefer would also like to see

credential holder cases worked expeditiously. The Deputy Secretary will be working the day to day operations of the department and sees Board training and improving and or building on the support the department gives to the Board as top priorities

Patricia Hoeft, Division Administrator of Board Services worked most recently as the assistant director of St. Norbert College Alumni and Parent Relations. She is a former commissioner for the Oneida Gaming Commission. Over a ten year period, Ms. Hoeft served in various positions within the Oneida Tribe of Indians including legislative analyst and manager of the Legislative Reference Office.

Thomas Ryan, Bureau Director of Health Service professions has a Law degree and a Master's in health care administration. His regulatory works includes two years at Wisconsin Insurance Commission in the Health and Life section. He also worked in legal services in Medicaid and housing law.

Chair Susan Sutter had the Board members introduce themselves and give a brief history of their time on the Board.

MINUTES OF FEBRUARY 12, 2003

Corrections to the Minutes:

Page 1 – Correct spelling of HIPAA

Page 2 – Change the Wisconsin Pharmaceutical Association to the Pharmacy Society of Wisconsin.

Page 4 – Correct the spelling for HIPAA (two places.)

Page 4 – Change Chapter 146 to Chapter 146.82 (two places.)

MOTION: Charlotte Rasmussen moved, seconded by Dan Luce, to approve the minutes of February 12, 2003, as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATION

None.

SUMMARY REPORT ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

A handout of pending cases was distributed and Pamela Haack advised the Board the report is up to date.

REVIEW AND APPROVAL OF PROPOSED ADMINISTRATIVE RULE RELATING TO CENTRAL FILL TO BE SENT TO LEGISLATURE

William Black, legal counsel, discussed all the changes made to the Administrative Rule relating to central fill. After the discussion, the Board decided that a second hearing should be held because of the changes made to the rule.

MOTION: Michael Bettiga moved, seconded by Dan Luce, to hold a second hearing on the proposed administrative rule relating to central fill. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by John Bohlman, to approve the changes made to the administrative rule relating to central fill. Motion carried unanimously.

WISCONSIN STATUTES, CHAPTER 146 – CONSULTATION WITH AGENT OF PATIENT

William Black, legal counsel, gave the history of 1993 Assembly Bill 1061, covering various changes in the public records law and the law governing personal information practices.

LICENSING OF PHARMACISTS RESIDING IN CANADA

After a short discussion on visa status of applicants for Wisconsin licensure, the Board determined that visa status is not a factor when determining eligibility for licensure.

MOTION: Dan Luce moved, seconded by John Bohlman, that the Board agrees that a visa status is not an applicable factor in determining eligibility for licensure in Wisconsin. Motion carried unanimously.

REVIEW OF MANUFACTURER SELF-INSPECTION REPORT

William Black, legal counsel, discussed the Department of Regulation and Licensing Manufacturing Self-Inspection Report. The Board decided that they will use the FDA Inspection form as the inspection.

MOTION: John Bohlman moved, seconded by Georgina Forbes, that the Manufacturing Self-Inspection report form needs to be updated to reflect using the FDA Inspection form as the inspection. Motion carried unanimously.

SENATE BILL 21

The Board reviewed and discussed the handout covering Senate Bill 21. The Board decided to support some provisions and oppose other provisions in the bill without voting to support or oppose it in its entirety, as follows:

MOTION: Cynthia Benning moved, seconded by John Bohlman, that a pharmacist has the right to exercise professional judgment to refuse to fill a prescription, and the Board believes the pharmacist should not be the subject of adverse employment action because of it. However, the Board does not believe that SB21 is phrased appropriately to encompass that right because it is too narrowly drawn for just two specific instances. Adopted by voice vote, all voting aye. Motion carried unanimously.

VARIANCE REQUEST – MORTON PHARMACY – WISCONSIN RAPIDS

Morton Pharmacy would like a variance to delivery of a prescription by an agent of the pharmacist that can only be made to the patient's residence. The Morton Pharmacy would like to allow patients to pick up prescriptions at the Pitney Bowes worksite within the confines of the health clinic there.

The Board requires more information before making a decision on this variance. In addition to the pharmacy policy, the Board would like to examine the phone log to ensure that patient consultation occurs. The Board would also require signature records that guarantee privacy. Delivery to patients must occur or the prescription must be returned. The Board would also like to ensure that the patient be informed that he or she may select where prescriptions are filled among market options.

VARIANCE REQUEST – NEIGHBORCARE PHARMACY – MENOMINEE – TECHNICIAN RATIO

The NeighbhorCare Pharmacy is applying for a variance to extend the number of technicians that a pharmacist can supervise in his or her facility. The Board would like to see the pharmacy protocol on dispensing before it approves a variance.

VARIANCE REQUEST – RIVERVIEW HOSPITAL – WISCONSIN RAPIDS

Riverview Hospital is requesting a variance regarding the minimum equipment requirement. The Board requires more information on what the equipment provisions are and why certain equipment would not be used. The Board would like to know if the facility is open and whether it is compounding drugs.

REQUEST FOR APPROVAL OF TEMPORARY/REMODEL – WALGREEN'S #00649 – MILWAUKEE

MOTION: John Bohlman moved, seconded by Michael Bettiga, to approve the temporary/remodel of Walgreen #00649, in Milwaukee. Motion carried unanimously.

PRACTICE QUESTIONS

William Black, legal counsel, will draft a response to Donna James, RN, stating that he does not believe the pharmacies are releasing protected information to sales representatives. The doctor's name, the number of prescriptions, and the name of the drug are not considered protected health information. If Doctors object to the release of this information, they could address the issue of protecting their names. If the information received from the sales representative includes patient information, Ms. James should try to determine the source of that information, as it is protected.

William Black, legal counsel, will draft a response to Isaac Coggs Pharmacy, #7110-042, stating its pharmacists should use judgment as to where stock is stored and which area is used to counsel the patient.

William Black, legal counsel, will respond to the survey from Triplei.

William Black, legal counsel, will respond to the Marshland Pharmacies, Inc. questions re: Hospital Pharmacy serving a nursing home with an Accu-Dose system. Mr. Black believes it is acceptable institutional dispensing.

William Black, legal counsel, will respond to Douglas K. Foley, PharmD., regarding Hospice and medication returns, stating that if the location is DEA registered, they can be returned and also that the institution must be an inpatient facility as covered in the statutes.

William Black, legal counsel, will respond to Lori Breckheimer R.Ph., regarding her questions on dispensing. The Riverview Cancer Center must have a pharmacist, and the Board would like to invite Lori Breckheimer, R.Ph. to the next meeting to discuss both inpatient and outpatient requirements.

REPORT ON BUPRENORPHINE SEMINAR – DAN LUCE

Dan Luce, who attended a seminar with Arthur Thexton, Prosecuting Attorney for the Department of Regulation and Licensing, discussed the new federal rules regarding addiction treatment. A physician who has been disciplined or has a limited license will be eligible, under federal statute, to obtain a UIN (unique identifier number), and will be able to prescribe and dispense a Schedule III opioid for the purpose of treating addictive disease. A methadone clinic registration will not be needed because the only requirement is that the person hold a valid active license. The Medical Examining Board may wish to consider this in drafting future orders, and specifically restrict a licensee from maintaining or obtaining a UIN, in appropriate cases.

REPORT OF CONTROLLED SUBSTANCES BOARD – CYNTHIA BENNING

No new information is available at this time.

ADJOURN TO CLOSED SESSION

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to adjourn to closed session pursuant to Wisconsin State Statutes 19.85(1)(a)(b)(f) and (g), to review applications; deliberate on requests for stay of suspensions, proposed stipulations, case closings, review exam issues; and, consult with legal counsel. Roll Call Vote: Charlotte Rasmussen-yes; John Bohlman-yes; Michael Bettiga-yes; Dan Luce-yes; Cynthia Benning-yes; Susan Sutter-yes; Georgiana Forbes-yes. Motion carried unanimously.

Open session recessed at 1:25 p.m.

RECONVENE TO OPEN SESSION

MOTION: Dan Luce moved, seconded John Bohlman, to reconvene the meeting into Open Session at 2:40 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

REQUEST FOR MODIFICATION OF BOARD ORDER

MARK ANDERSON, RPH

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to approve the modification of the Board Order in the matter of Mark Anderson, R.Ph.; to reduce his therapy from one session every four weeks to one session every eight weeks. Motion carried unanimously.

REQUESTS FOR THREE MONTH STAY OF SUSPENSION

CORY FORD, R.PH.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to grant a three month stay of suspension in the matter of Cory Ford, R.Ph. Motion carried unanimously.

GERALD JENNINGS, R.PH.

MOTION: Dan Luce moved, seconded by John Bohlman, to grant a three month stay of suspension in the matter of Gerald Jennings, R.Ph. Motion carried unanimously.

WILLIAM KARWOSKI, R.PH.

MOTION: Cynthia Benning moved, seconded by Georgina Forbes, to grant a three month stay of suspension in the matter of William Karwoski, R.Ph., and deny any modifications. Motion carried unanimously.

RALPH KOCH, R.PH.

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to grant a three month stay of suspension in the matter of Ralph Koch, R.Ph. Motion carried unanimously.

PAUL NELSON, R.PH.

MOTION: John Bohlman moved, seconded by Charlotte Rasmussen, to grant a three month stay of suspension in the matter of Paul Nelson, R.Ph. Motion carried unanimously.

DUANE OESTREICH, R.PH.

MOTION: Charlotte Rasmussen moved, seconded by Cynthia Benning, to grant a one month stay of suspension in the matter of Duane Oestreich, R.Ph., to request copies of the prescriptions he's taking from the start of the order, explain the positives in his screens, and request a report from his supervisor. Michael Bettiga – abstained. Motion carried.

MICHAEL O'KRAY, R.PH.

MOTION: Cynthia Benning moved, seconded by John Bohlman, to grant a three month stay of suspension in the matter of Michael O'Kray, R.Ph., and deny any modifications. Motion carried unanimously.

ANDREW RICE, R.PH.

MOTION: John Bohlman moved, seconded by Dan Luce, to grant a three month stay of suspension in the matter of Andrew Rice, R.Ph. Michael Bettiga abstained. Motion carried.

THOMAS TRISCARI, R.PH.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to grant a three month stay of suspension in the matter of Thomas Triscari, R.Ph. Motion carried unanimously.

CHARLENE WILLIS, R.PH.

MOTION: Georgina Forbes moved, seconded by John Bohlman, to grant a three month stay of suspension in the matter of Charlene Willis, R.Ph., and deny any modifications. Motion carried unanimously.

CASE CLOSINGS

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to close complaint **01 PHM 084**, for prosecutorial discretion (P2). Motion carried unanimously.

MOTION: Michael Bettiga moved, seconded by John Bohlman, to close complaint **02 PHM 023**, for prosecutorial discretion (P3). Dan Luce abstained. Motion carried.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to close complaint **02 PHM 043**, for prosecutorial discretion (P2). Motion carried unanimously.

EXAMINATION ISSUES - CASEY BROWN

Chairman Sutter will write a letter to Kris Hendrickson advising her that the cut off date and postmark date for application materials for the June 18, 2003 examination is May 19, 2003.

Chairman Sutter addressed the email from Mara Kieser, which stated that the Minnesota Board will not honor scores of the NABPLEX if the student takes the exam prior to graduation in Wisconsin. The Board will request NABP to survey other state boards to see what their stand is on this issue. The application may need to be changed explaining what the consequences would be in other states if they took the NABPLEX before graduation.

NAPB ANNUAL MEETING – MAY 3-7, 2003 – PHILADELPHIA

The Board noted that the NAPB annual meeting will be held in Philadelphia May 3-7, 2003.

OTHER BOARD BUSINESS

Four Board members will be attending the Wisconsin Pharmacy Leadership Summit on April 3, 2003.

ADJOURNMENT

MOTION: Michael Bettiga moved, seconded by John Bohlman, to adjourn the meeting. Motion carried unanimously.

Meeting adjourned at 3:00 p.m.